

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper )	DOCKET NO. TE-060156
Carrier Classification of )	
)	ORDER 02
ELITE CHARTERS, INC. )	
)	INITIAL ORDER REQUIRING
)	ELITE CHARTERS, INC. TO
)	CEASE AND DESIST FROM
)	UNAUTHORIZED CHARTER
)	PARTY OR EXCURSION
..... )	SERVICE OPERATIONS

***Synopsis:** This Order proposes a Cease and Desist Order requiring Elite Charters, Inc. to discontinue any unauthorized charter party or excursion service passenger transportation operations.*

**I. INTRODUCTION**

- 1     **Nature of Proceeding:** The Washington Utilities and Transportation Commission (Commission), initiated a special proceeding, pursuant to RCW 81.04.510, to determine whether Elite Charters, Inc. (hereinafter referred to as “Elite Charters” or “the Company”) is operating as a charter party or excursion service for transportation of passengers for compensation without the certificate required for such operations by RCW 81.70.220.
  
- 2     **Procedural history:** Administrative Law Judge Karen M. Caillé heard this matter on due and proper notice to all interested parties on March 24, 2006, in Kennewick, Washington. Commission Staff presented the testimony of Betty Young, a compliance specialist with the Commission’s Business Practices Investigation Section. Mr. Calvin Johnston, president of Elite Charters, testified on behalf of the Company.

- 3     **Initial order.** The presiding administrative law judge finds Elite Charters is operating as a charter party or excursion service for transportation of passengers without the necessary authority, and recommends that the Commission enter a cease and desist order, prohibiting future unauthorized operation on behalf of the Company.
- 4     **Appearances:** The parties' representatives follow.

Elite Charters, Inc.	by Calvin Johnston, president Elite Charters, Inc. P. O. Box 271 College Place, WA 99324
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Commission Staff:	Jennifer Cameron-Rulkowski Assistant Attorney General 1400 S. Evergreen Park Drive S.W. P.O. Box 40128 Olympia, WA 98504-0128
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## II. MEMORANDUM

### A. DISCUSSION

Commission Staff presented evidence that in early October 2005, the Commission notified Elite Charters that it had not filed the required proof of insurance coverage for its charter party and excursion service operation.<sup>1</sup> Because Elite Charters failed to respond to this notification, the Commission first suspended Elite Charters' authority, and then cancelled it by order entered on December 6, 2005.<sup>2</sup> Subsequently, the Commission received information that Elite Charters transported 142 people from the Walla Walla Holiday Inn on December 12, and 13, 2005, and 75 people from Key Technology on December 19, 2005.<sup>3</sup>

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<sup>1</sup> Tr., p. 7, Ex. 1.

<sup>2</sup> Tr., pp. 8-9, Exs. 2 and 3.

<sup>3</sup> Tr., pp. 9-12, Exs. 4 thru 7.

- 5 On January 6, 2006, the Commission sent Elite Charters a letter, stating that it had evidence that Elite Charters was operating a passenger charter service carrier in violation of a Commission order. The letter advised the Company that Commission Staff was pursuing an enforcement action.<sup>4</sup> On January 17, 2006, the Commission issued a penalty to Elite Charters for \$21,700.00, pursuant to RCW 81.04.405, for violation of the Commission order in Docket TE-050009. The Commission based the penalty amount on Elite's transport of a total of 217 people after the Commission's cancellation of the Company's operating authority.<sup>5</sup>
- 6 Mr. Calvin Johnston, president of Elite Charters, sworn and under oath, admitted that Elite Charters knowingly provided charter transportation without insurance and in violation of the Commission's December 6, 2005, order by transporting passengers for Holiday Inn Express and Key Technology on December 12 and 13, and 19, 2005.<sup>6</sup>

## **B. DECISION**

- 7 RCW 81.07.220 provides that no person may conduct charter party or excursion service transportation of passengers without a certificate of authority from the Commission. The primary reason for this requirement is to ensure the safety of the traveling public by preventing carriers who lack insurance or whose vehicles and drivers are not operating safely from providing transportation service. The Commission may enter a cease and desist order when, after proper notice and a hearing, it is shown that a company whose operations require Commission authority has been operating without that authority.<sup>7</sup>
- 8 The evidence shows that Elite Charters provided transportation of the type that requires Commission authority. Mr. Johnston admitted that he knowingly allowed Elite Charters' insurance to lapse. He also admitted that Elite Charters knowingly transported passengers on December 12 and 13, 2005, for the Holiday Inn Express, and on December 19, 2005, for Key Technology, in violation of the Commission's December 6, 2005 order, cancelling Elite Charters' authority to conduct such operations. Under these circumstances, entry of a Cease and Desist Order is clearly warranted because Elite

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<sup>4</sup> Tr., pp. 12-13, Ex. 8.

<sup>5</sup> Tr., p. 13, Ex. 9.

<sup>6</sup> Tr. pp. 15-16.

<sup>7</sup> RCW 81.04.510.

Charters' knowing and willing violation of the Commission's order and operation without insurance pose a danger to the public.

### **III. FINDINGS OF FACT**

- (1) The Commission canceled Elite Charters' authority to operate as a charter party and excursion service passenger carrier on December 6, 2005.
- (2) On December 12 and 13, 2005, Elite Charters knowingly provided transportation without the required operating authority from the Commission when it provided charter or excursion passenger transport from Holiday Inn Express.
- (3) On December 19, 2005, Elite Charters knowingly provided transportation without the required operating authority from the Commission when it provided charter or excursion passenger transport from Key Technology.

### **IV. CONCLUSIONS OF LAW**

- (1) The Washington Utilities and Transportation Commission has jurisdiction over the parties and subject matter of this proceeding.
- (2) The Commission may enter Cease and Desist Orders when it finds that a company that is required to have a certificate of authority to operate as a transportation company is operating without such a certificate.
- (3) Elite Charters violated RCW 80.70.220 when it knowingly carried passengers on December 12, 13, and 19, 2005, without insurance and without proper authority from the Commission.
- (4) The Commission should order Elite Charters to cease and desist unauthorized charter party and excursion service passenger transportation.

**V. ORDER**

16 THIS ORDER RECOMMENDS That the Commission order Elite Charters to cease and desist from unauthorized charter party and excursion service passenger transportation in the state of Washington.

DATED at Olympia, Washington, and effective May 16, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

KAREN M. CAILLÉ  
Administrative Law Judge

**NOTICE TO THE PARTIES:** This is an Initial Order. The action proposed in this Initial Order is not effective until entry of a final order by the Utilities and Transportation Commission. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a *Petition to Reopen* a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

One copy of any Petition or Answer filed must be served on each party of record, with proof of service as required by WAC 480-07-150(8) and (9). An Original and twelve copies of any Petition or Answer must be filed by mail delivery to:

Attn: Carole J. Washburn, Executive Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia Washington 98504-7250.